

**ENTERED**

May 30, 2017

David J. Bradley, Clerk

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

DAVID PORTILLO CRUZ,  
*Plaintiff,*

v.

NANCY A. BERRYHILL, Acting  
Commissioner of Social Security,  
*Defendant.*

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CIVIL ACTION NO. 4:15-CV-3389

**MEMORANDUM AND RECOMMENDATION**

This case is before the court on plaintiff's motion for attorney fees (Dkt. 19).

The Commissioner did not respond and the motion is taken as unopposed.

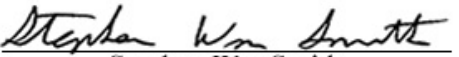
On January 27, 2017, the court issued a final judgment (Dkt. 13) in favor of plaintiff, reversing the Commissioner's decision denying Cruz disability benefits and remanding this case for an award of benefits. Thereafter, Cruz was awarded \$5,882.74 for reasonable and necessary attorney fees (Dkt. 18).

On remand, the Social Security Administration awarded Cruz benefits, and awarded attorney fees of \$13,945.43, which represents 25% of the past due benefits. The court therefore recommends that the motion for fees be granted and that the court enter a final judgment awarding \$13,945.43 for reasonable and necessary attorney fees, and further order that upon receipt of such funds, counsel

for plaintiff remit \$5,882.74, which represents the previously awarded EAJA fees, directly to plaintiff.

The parties have fourteen days from service of this Memorandum and Recommendation to file written objections. Failure to timely file objections will preclude appellate review of factual findings or legal conclusions, except for plain error. FED. R. CIV. P. 72.

Signed at Houston, Texas on May 30, 2017.

  
Stephen Wm Smith  
United States Magistrate Judge